

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #06-573

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On August 8, 2007, the Water Pollution Control Board conducted the first public hearing/board meeting concerning amendments to 327 IAC 2-1-6, 327 IAC 2-1.5-8, and 327 IAC 5-10-6 concerning compliance with the bacteriological criteria and the application of a single sample maximum limitation of 235 most probable number (mpn) or colony forming units (cfu)/100 ml of *Escherichia coli* (*E. coli*) bacteria in waters of the state. Comments were made by the following parties:

Brett Barber, Indiana Water Environment Association (IWEA)

Larry Kane, Attorney representing City of Fort Wayne (FW)

Glenn Pratt, Sierra Club Vice Chairman (SC)

Carlton Ray, City of Indianapolis, Deputy Director of Department of Public Works (IND)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: IWEA, an organization of about 1300 clean water professionals, including operators both public and private of water and wastewater treatment facilities, consultants, and industrial dischargers, worked with IDEM to develop the draft rule amendments concerning *E. coli* compliance and is in support of the rule for preliminary adoption. The rule modifications do not change the water quality criteria but make a simple change in the methodology by which NPDES permit holders, primarily municipal dischargers, have the ability, on occasion due to limitation in both the analytical and sampling procedures that are associated with bacteriological testing, to allow for a minor number of samples in a given month to exceed that single sample 235 cfu/100 ml limitation. (IWEA)

Response: IDEM appreciates IWEA's participation in the workgroup process and support for the rule amendments. It is true that the water quality criteria for *E. coli* is not changed by this rulemaking.

Comment: The City of Fort Wayne supports preliminary adoption of the draft rule amendments concerning *E. coli* compliance. The draft rule represents sound scientific and technical reasoning that will be applied with respect to taking the daily maximum *E. coli* water quality criteria and applying it to NPDES permits, in particular, dealing with the infrequent but still troublesome compliance issues that sometime arise from the application of the single daily maximum limitation. The draft rule amendments, if adopted, will place Indiana pretty much in the same situation as most other Great Lakes states which have very similar types of exclusions or exceptions for a small percentage of monthly samples taken for *E. coli*. (FW)

Response: IDEM appreciates the city's support for the rule amendments.

Comment: The draft rule amendments concerning *E. coli* compliance would be acceptable if a requirement were added to cap *E. coli* discharges so that even the 10% excluded sample results could not exceed a maximum not-to-be-exceeded number, for example 5,000 cfu/100ml. While the 235 limit may not be a meaningful or accurate representation of the *E. coli* test, it is hard to argue that a result of 5,000 represents the test methodology being inaccurate. (SC)

Response: The idea of adding a maximum not-to-be-exceeded *E. coli* requirement was discussed during the workgroup process and thought to be unnecessary because NPDES permits

contain requirements for municipalities to investigate why such a high E. coli result occurred. If the discharger is taking daily samples, there won't be any meaningfulness to resampling as part of the investigation.

Comment: The City of Indianapolis supports preliminary adoption of the draft rule amendments concerning E. coli compliance. (IND)

Response: IDEM appreciates the city's support for the rule amendments.